IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 29.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.704 of 2006

P.Chandrakala ... Petitioner

Vs.

1.The State, rep. by its
Secretary to Government of Tamil Nadu,
Food Co-operation and Consumer
Protection Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Salem city.

3.The Secretary to Government of India,
Food and Consumer Protection Department,
Government of India,
New Delhi.

4.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs
and Public Distribution,
Room No.270, Krishi Bhavan,
New Delhi-110 001. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records pertaining to CMP No.17/PBMMSEC Act/Salem city/2006 dated 12.07.2006 on the file of the second respondent, by which the petitioner's husband was detained and confined at Central Prison, Salem and quash the same as illegal and consequently direct the first and second respondents to produce the body of the detenu Parameswaran before this Court and set at him at liberty.

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For Petitioner : Mr.K.Selvakumaraswami

For Respondents: Mr.M.Babu Muthu Meeran
1 and 2 Addl. Public Prosecutor

For respondents: Mr.P.Kumaresan (ACGSC)
3 & 4

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner herein challenges the impugned order of detention, dated 12.07.2006, detaining her husband by name Parameswaran under the provisions of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for respondents 1 and 2 and the learned Additional Central Government Standing Counsel for respondents 3 and 4.

3. At the foremost, learned counsel for the petitioner submitted that, apart from sending a representation to the first respondent, the petitioner-wife of the detenu has sent a representation also to respondents 3 and 4 on 27.07.2006. According to the learned counsel for the petitioner, inasmuch as the said representation was not considered till this date by the Central Government, the detenu is very much prejudiced and accordingly, the detention order is to be quashed.

4. On behalf of the Union of India, Under Secretary to the Department of Consumer Affairs, Food and Public Distribution, New Delhi, has filed a counter affidavit dated 07.09.2006. Among the information furnished, the details available at paragraphs 4 and 5 are relevant. In para 4, the deponent has stated that the detention order was approved by the State Government on 21.07.2006 and the report thereof sent by them in their letter dated 21.07.2006 was received by their Department on 28.07.2006. The report was in English language, duly examined by the Central Government and found to be in order. In paragraph 5, the deponent has stated that the representation made by the wife of the detenu in Tamil language was received by the Central Government on 31.07.2006 and by the concerned Section on 01.08.2006. It is further stated that the State Government was requested to furnish English version of the representation by telegram dated

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03.08.2006. The deponent has also stated that the State Government were reminded on two occasions i.e. on 14.08.2006 and 21.08.2006. According to the Officer, the English version of the representation is still awaited. Today, during the course of argument, the learned counsel appearing for the Central Government represented that till this date, viz., 29.09.2006, the Central Government has not received the required particulars from the State Government for disposal of the representation received by them on 31.07.2006. The details mentioned in the counter affidavit of the under Secretary to the Department of Consumer Affairs, Food and Public Distribution, New Delhi, show that that the representation of the petitioner was received by the Central Government on 31.07.2006. Though English version of the representation and other details were called for and reminders were sent on two occasions, the fact remains that required particulars have not been furnished by the State Government till this date i.e. on 29.09.2006. In such circumstances, we hold that the detenu is very much prejudiced in not considering his representation, which was admittedly received by the Central Government as early as on 31.07.2006. Though the Central Government may have an excuse viz., that they are awaiting necessary English version and other particulars from the State Government, as observed earlier, the consideration of the representation is paramount and in the absence of an order by the Central Government, we hold that the detenu is very much prejudiced in not considering his representation. On this ground, the detention order is liable to be quashed and accordingly, the same is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government of Tamil Nadu, Food Co-operation and Consumer Protection Department, Fort St. George, Chennai-9.

2.The Commissioner of Police, Salem city.

3.The Secretary to Government of India, Food and Consumer Protection Department, Government of India, New Delhi.

4.The Additional Secretary, Government of India, Ministry of Consumer Affairs and Public Distribution, Room No.270, Krishi Bhavan, New Delhi-110 001.

5.The Superintendent, Central Prison, Salem.

6. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

7. The Public Prosecutor, High Court, Madras.

LA(CO)
SR/26.10.2006 HCP. No.704 of 2006

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